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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/508,404  | 09/21/2004  | Shotachi Shimizu     | CONDA.00022         | 4037             |
| 22858 7590 07/08/2009<br>CARSTENS & CAHOON, LLP<br>P O BOX 802334<br>DALLAS, TX 75380 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| HOOK, JAMES F   |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 3754  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/508,404

**Applicant(s)**

SHIMIZU ET AL.

**Examiner**

James F. Hook

**Art Unit**

3754

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 and 7-33 is/are pending in the application.
- 4a) Of the above claim(s) 7, 8 and 16-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 9-15 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 4/23/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 12, 15, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hegler in view of Kirma. The reference to Hegler discloses the recited housing member for elongate material comprising a longitudinal housing having a plurality of convex portions arranged at predetermined pitches along the longitudinal direction, where the convex portions on one half of the housing are wider than those on another part of the housing such that they nest together to close the housing, and inherently the nesting of the convex portions would prevent longitudinal movement. The reference to Hegler discloses all of the recited structure with the exception of forming the housing member of two pieces forming a base and cover portion that interlock, where the type of overlapping structure with convex portions of different width at the longitudinal seam is already disclosed by Hegler on the single seam and duplication of such for two seams is considered obvious, and forming such in a rectangular shape. The reference to Kirma discloses the recited housing for elongate material comprising a housing which can be formed as two pieces where such is a known manner to form such housing conduits, and where such can be formed with round or rectangular cross sections with the top fitting over the bottom. It would have been obvious to one skilled

in the art to modify the housing in Hegler to be made of two pieces and to form such as a rectangular cross section as suggested by Kirma where such is an alternate known manner in the art to form housing members of two pieces and it only requires routine skill in the art to make a unitary piece into a pair of pieces and where such is an equivalent known shape of such a conduit where such would provide a flat surface and allow for easier placing of the material in the housing thereby saving time and installment costs. Hegler is used for cables, and such can be provided inside of a building when parked in a garage. Inherently based on the nesting of the ribs and the teachings of Kirma to have a top portion over the bottom portion would inherently provide the protection set forth.

Claims 4, 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hegler in view of Kirma as applied to claims 1, 9, 12, 15, and 33 above, and further in view of Bartholomew. The reference to Hegler as modified discloses all of the recited structure with the exception of providing the nesting convex portions with tabs and slots to lock the seam, and fixing the using such to house fluid pipes as well. The reference to Bartholomew discloses the recited housing for elongate members including wires and fluid pipes, where attaching such to a building is considered obvious to one skilled in the art to prevent movement and subsequent damage to the elongate members, the housing comprising a plurality of convex portions 22 provided with locking tabs 34,36, that lock with apertures 24 to hold the housing more securely closed. It would have been obvious to one skilled in the art to modify the housing as modified in Hegler by providing locking tab structures in the convex portions

to insure the housing remains closed to protect the elongate elements and where the elongate elements protected can be wires or fluid tubes as suggested by Bartholomew where such would prevent the housing from opening and allowing damage to the elongate elements and the equivalence of using such housing to protect fluid tubes as well as wires.

Claims 1, 4, 9-15, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over are Bartholomew in view of Hegler and Kirma. The reference to Bartholomew discloses all of the recited structure with the exception of forming the housing of two pieces, forming the housing in a rectangular shape, and forming the convex portions with different widths to allow them to nest. It would have been obvious to one skilled in the art to modify the convex portions in Bartholomew to have different widths to allow such to nest together such that the longitudinal seam is closed as suggested by Hegler where such would allow the seam to be fully covered due to the overlapping of the convex portions which would only be possible with the teachings of Hegler to provide different width convex portions. It would have been obvious to one skilled in the art to modify the housing in Bartholomew to be made of two pieces and of a rectangular cross section as suggested by Kirma where such is an alternate known manner in the art to form housing members of two pieces and it only requires routine skill in the art to make a unitary piece into a pair of pieces and where such is an equivalent known shape of such a conduit where such would provide a flat surface and allow for easier placing of the material in the housing thereby saving time and installment costs.

***Response to Arguments***

Applicant's arguments filed April 23, 2009 have been fully considered but they are not persuasive. The Hegler reference shows wall corrugations that change in width and at least the more narrow end would have a portion of the wall that will be smaller along the longitudinal direction as required by the claims. The claims do not appear to recite that the difference in size extends along the entire length of the portion that is smaller of size, and therefore the prior art is considered to teach this feature as currently claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH